



31 REG 80
DEP REC
Ref ID: 307
PATENT
P55971
3/28/04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

KI-SEON KIM *et al.*

Serial No.: 09/503,240

Examiner : FISHER, MICHAEL

Filed: 14 February 2000

Art Unit: 3629

For: MONITOR CASE COMPRISING FACILE DETACH STRUCTURE

SECOND REQUEST FOR REFUND

Mail Stop : 16

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir :

Applicants respectfully request refund in the amount of \$320.00 for filing second Notice of Appeal inadvertently paid to the U.S. Patent & Trademark Office on 8 July 2003, and \$320.00 for filing a second Appeal Brief charged to the Applicant's undersigned Attorney's Deposit Account on 17 September 2003 in the above-captioned application for the reason as follows:

only
Appeal
brief

1. On 22 May 2002, Applicants filed a Notice of Appeal and paid \$320.00 (Check No. 42512) for the Notice of Appeal fee.
2. On 22 July 2002, Applicants timely filed triplicate of Appeal Brief and paid \$320.00 (Check No. 42778) for filing Appeal Brief fee.

3. On 22 October 2002, a non-final Office action (Paper No. 19) was mailed.
4. On 17 January 2003, Applicants timely filed a Response to Paper No. 19.
5. On 8 April 2003, a final Office action (Paper No. 21) was mailed.
6. On 16 May 2003, Applicants timely filed a Response under 37 C.F.R. §1.116 in reply to Paper No. 21.
7. On 17 June 2003, an Advisory action was mailed.
8. On 8 July 2003, Applicants filed a *second* Notice of Appeal and paid \$320.00 (Check No. 44498) for the Notice of Appeal fee.
9. On 8 September 2003, Applicants timely filed *second* Appeal Brief without filing fee of Appeal Brief. In the Transmittal of Appellant's Brief Fee, Appellant stated that "A fee of \$320.00 for filing an Appeal Brief has been previously paid on 22 July 2002 together with an Appeal Brief filed on 22 July 2002. Thus, we believe that there is no fee incurred by filing this Appeal Brief."
10. On 21 October 2003, Applicants filed a Request for Refund of \$320.00 for the second Notice of Appeal fee which Applicants inadvertently overpaid on 8 July 2003.
11. On 27 October 2003, Applicants received a Monthly Statement of Deposit Account dated 30 September 2003. In the Statement, \$320.00 for *second* Appeal Brief fee was charged on 17 September 2003.
12. On 9 December 2003, Applicants received a Notice which denied Applicant's refund request in the amount of \$320.00 for the *second* Notice of Appeal fee.

As explained above, the prosecution was re-opened prior to a decision on the merits by the Board of Patent Appeals and Interferences on the *first* Appeal Brief filed on 22 July 2002.

MPEP §1208.02 states that :

"If prosecution was reopened prior to a decision on the merits by the Board of Patent Appeals and Interferences, the fee paid for the Notice of Appeal and Appeal Brief will be applied to a later appeal on the same application."

In view of the above, the fees paid for the *first* Notice of Appeal filed on 22 May 2002 and the *first* Appeal Brief filed on 22 July 2002 should be applied to the *second* Notice of Appeal filed on 8 July 2003 and the *second* Appeal Brief filed on 8 September 2003.

Accordingly, it is respectfully requested that the *second* Notice of Appeal fee \$320.00 which was paid by mistake on 8 July 2003 and the *second* Appeal Brief fee \$320.00 which was overcharged on 19 September 2003 be refunded to Applicant's undersigned Attorney's Deposit Account No. 02-4943.

Please refer the attached documents for the above-referenced patent application.

Respectfully submitted,



Robert E. Bushnell
Attorney for Applicant
Reg. No.: 27,774

1522 K Street, N.W. Suite 300
Washington, D.C. 20005-1202
(202) 408-9040

Enclosures: 1) Copy of Notice of Appeal and Fee transmittal with a Check No.42512 filed on 5/22/2002, and copy of postcard receipt dated 5/22/02
2) Copy of transmittal of Appellant's Brief fee, Fee transmittal with a Check No. 42778 filed on 7/22/2002, and copy of postcard receipt dated 7/22/02
3) Copy of second Notice of Appeal and Fee Transmittal with a Check No. 44498 filed on 7/8/2003, and copy of postcard receipt dated 7/8/2003
4) Copy of transmittal of Appellant's Brief fee filed on 9/8/2003, and copy of postcard receipt dated 9/8/2003
5) Copy of Monthly statement of Deposit Account dated 9/30/2003
6) Copy of MPEP §1208.03

Folio: P55971

Date: 2/13/04

ID: REB/rfc



COPY

P55971

22 May 2002

Applicant: KI-SEON KIM et al.
Serial No.: 09/503,240
Filed: 14 February 2000
For: *MONITOR CASE COMPRISING FACILE DETACH STRUCTURE*

Document filed:

1. Notice of Appeal
2. Fee Transmittal with check #42512 for \$430.00 (\$320.00 for Notice of Appeal and \$110.00 for 1XOT)
3. Petition for One-month Extension of Time





PATENT
P55971

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

KI-SEON KIM et al.

Serial No: 09/503,240

Examiner: FISHER, MICHAEL J.

Filed: 14 February 2000

Art Unit: 3629

For: MONITOR CASE COMPRISING FACILE DETACH STRUCTURE

NOTICE OF APPEAL

Mail Stop: Appeal Brief-Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §1.191, Applicant hereby appeals to the Board of Patent Appeals from the final rejection dated 8 April 2003 (Paper No. 21) of claims 1, 13, 16 and 21.

In support of the Notice, the items checked below are appropriate:

- 1. A response to the final rejection is being filed.
- 2. Appeal Fee: \$320.00
- 3. Enclosed (a check for \$320.00)
- 4. Charge Deposit Account No. 02-4943, if the charges exceed the check amount enclosed.

Respectfully submitted,

Originally signed

Robert E. Bushnell

Reg. No.: 27,774

1522 "K" Street, N.W., Suite 300
Washington, D.C. 20005
(202) 408-9040

Folio: P55971
Date: July 8, 2003
I.D.: REB/sb

FEE TRANSMITTAL

Patent fees are subject to annual revision.



TOTAL AMOUNT PAYMENT (\$ 430.00)

METHOD OF PAYMENT (check one)

- The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number: 02-4943

Deposit Account Number: _____

 Charge Any Additional Fee Required Under 37 C.F.R. §1.16 and 1.17. Applicant claims small entity status. See 37 CFR 1.27

2. ■ Payment Enclosed:

(CHECK #42512)

 Check Credit Card Money Order Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity	Small Entity				
Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	\$
106	330	206	165	Design filing fee	\$
107	510	207	255	Plant filing fee	\$
108	740	208	370	Reissue filing fee	\$
114	160	214	80	Provisional filing fee	\$
SUBTOTAL (1)		(\$).00			

2. EXTRA CLAIM FEES

	Extra Claims	Fee from below	Fee Paid	
Total claims	-20** =	x	=	
Independent Claims	-3** =	x	=	
Multiple Dependent		=		
** or number previously paid, if greater; For Reissues, see below				
Large Entity	Small Entity			
Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent
SUBTOTAL (2)		(\$).00		

Complete if Known					
Application Number		09/503,240			
Filing Date		14 February 2000			
First Named Inventor		KI-SEON KIM et al.			
Examiner Name		FISHER, MICHAEL J.			
Group/Art Unit		3636			
Attorney Docket No.		P55971			
FEE CALCULATION (continued)					
3. ADDITIONAL FEES					
Large Entity	Small Entity				
Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge-late filing fee or oath	\$
127	50	227	25	Surcharge-late provisional filing fee or cover sheet	\$
139	130	139	130	Non-English specification	\$
147	2,520	147	2,520	For filing a request for reexamination	\$
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	\$
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	\$
115	110	215	55	Extension for reply within first month	\$110.00
116	400	216	200	Extension for reply within second month	\$
117	920	217	460	Extension for reply within third month	\$
118	1,440	218	720	Extension for reply within fourth month	\$
128	1,960	228	980	Extension for reply within fifth month	\$
119	320	219	160	Notice of Appeal	\$320.00
120	320	220	160	Filing a brief in support of an appeal	\$
121	280	221	140	Request for oral hearing	\$
138	1,510	138	1,510	Petition to institute a public use proceeding	\$
140	110	240	55	Petition to revive - unavoidable	\$
141	1,280	241	640	Petition to revive - unintentional	\$
142	1,280	242	640	Utility issue fee (or reissue)	\$
143	460	243	230	Design issue fee	\$
144	620	244	310	Plant issue fee	\$
122	130	122	130	Petitions to the Commissioner	\$
123	50	123	50	Petitions related to provisional applications	\$
126	180	128	180	Submission of Information Disclosure Statement	\$
581	40	581	40	Recording each patent assignment per property (Times number of properties)	\$
146	740	246	370	Filing a submission after final rejection (37 C.F.R. §1.129(a))	\$
149	740	249	370	For each additional invention to be examined (37 C.F.R. §1.129(b))	\$
Other Fee (specify) _____					\$
Other Fee (specify) _____					\$
** Reduced by Basic Filing Fee Paid				SUBTOTAL (3)	\$430.00

SUBMITTED BY

Complete (if applicable)

Typed or Printed Name	Robert E. Bushnell, Esq.		Reg. Number	27,774
Signature	Originally signed	Date	22 May 2002	Deposit Account User ID

REB/sb

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

42512

ROBERT E. BUSHNELL
LAW OFFICE
1522 K STREET, N.W., SUITE 300
WASHINGTON, D.C. 20005-1202
(202) 408-9040

15-7011/2540

5/22/2002

TO THE Commissioner Of United States Patent And Trademark Office

our Hundred Thirty and 00/100***** \$ **430.00 DOLLARS

Assistant Commissioner
for Patents and Trademarks
Washington
D.C. 20231

P55971

Originally signed

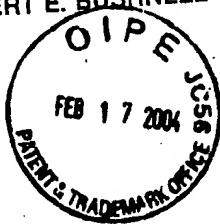
Box: AF - S.N.09/503,240 - Notice of Appeal & I XOT fee.

" 04 25121" : 2540701161: " 1510 4915"

SECURITY FEATURES INCLUDED. DETAILS ON BACK.

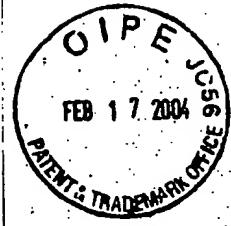
42512

ROBERT E. BUSHNELL



ROBERT E. BUSHNELL

42512



P55971

22 July 2002

Applicant: KI-SEON KIM et al.

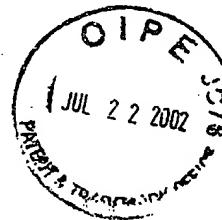
Serial No.: 09/503,240

Filed: 14 February 2000

For: *MONITOR CASE COMPRISING FACILE DETACH
STRUCTURE*

Document filed:

1. Appeal Brief (triplicate)
2. Transmittal of Appellant's Brief Fee
3. Fee Transmittal and Check #42778 for \$320.00



I Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL

~~Part~~ fees are subject to annual revision.

A circular library stamp with the word "OIPE" at the top. The date "FEB 17 2004" is in the center. To the right, there are two sets of numbers: "1055" and "1056". To the left, there are initials "JG". The stamp has a decorative border.

TOTAL AMOUNT PAYMENT		(\$ 320.00)		Attorney Docket No.	P55971			
METHOD OF PAYMENT (check one)				FEE CALCULATION (continued)				
1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:				3. ADDITIONAL FEES				
Deposit Account Number: <u>02-4943</u> Deposit Account Number: _____				Large Entity Small Entity				
				Fee Code	Fee (\$)	Fee Description	Fee Paid	
<input type="checkbox"/> Charge Any Additional Fee Required Under 37 C.F.R. §1.16 and 1.17.				105	130	205 65	Surcharge-late filing fee or oath	\$
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27				127	50	227 25	Surcharge-late provisional filing fee or cover sheet	\$
				139	130	139 130	Non-English specification	\$
				147	2,520	147 2,520	For filing a request for reexamination	\$
2. ■ Payment Enclosed: (CHECK #42778) <input checked="" type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other				112	920*	112 920*	Requesting publication of SIR prior to Examiner action	\$
				113	1,840*	113 1,840*	Requesting publication of SIR after Examiner action	\$
				115	110	215 55	Extension for reply within first month	\$
				116	400	216 200	Extension for reply within second month	\$
				117	920	217 460	Extension for reply within third month	\$
				118	1,440	218 720	Extension for reply within fourth month	\$
				128	1,960	228 980	Extension for reply within fifth month	\$
				119	320	219 160	Notice of Appeal	\$
				120	320	220 160	Filing a brief in support of an appeal	\$320.00
				121	280*	221 140	Request for oral hearing	\$
				138	1,510	138 1,510	Petition to institute a public use proceeding	\$
				140	110	240 55	Petition to revive - unavoidable	\$
				141	1,280	241 640	Petition to revive - unintentional	\$
				142	1,280	242 640	Utility issue fee (or reissue)	\$
				143	460	243 230	Design issue fee	\$
Total claims -20** = x =				144	620	244 310	Plant issue fee	\$
Independent Claims - 3** = x =				122	130	122 130	Petitions to the Commissioner	\$
Multiple Dependent =				123	50	123 50	Petitions related to provisional applications	\$
** or number previously paid, if greater; For Reissues, see below				126	180	126 180	Submission of Information Disclosure Statement	\$
				581	40	581 40	Recording each patent assignment per property (Times number of properties)	\$
				146	740	246 370	Filing a submission after final rejection (37 C.F.R. §1.129(a))	\$
				149	740	249 370	For each additional invention to be examined (37 C.F.R. §1.129(b))	\$
				Other Fee (specify) _____			\$	
				Other Fee (specify) _____			\$	
SUBTOTAL (2) (\$.00)				** Reduced by Basic Filing Fee Paid			SUBTOTAL (3) \$320.00	

SUBMITTED BY

Complete (if applicable)

Typed or Printed Name	Robert E. Bushnell, Esq.		Reg. Number	27,774
Signature	Originally signed	Date	22 July 2002	Deposit Account User ID

CITIBANK, F.S.B.
WASHINGTON, D.C. 20036-0987

42778

ROBERT E. BUSHNELL
 LAW OFFICE
 3522 K STREET, N.W., SUITE 300
 WASHINGTON, D.C. 20005-1202
 (202) 408-9040

15-701172549

7/22/2002

PAY TO THE **Commissioner Of the United States Patent And Trademark Office**

\$ **320.00

DOLLARS

Three Hundred Twenty and 00/100*****

Assistant Commissioner
 for Patents and Trademarks
 Washington
 D.C. 20231

P55971

Originally signed

MEMO

Box AF SN 09/503-240 Appeal Brief fee

104 2778 11 2540 701161 1510 49151

① SECURITY FEATURES INCLUDED. DETAILS ON BACK.

ROBERT E. BUSHNELL

42778



ROBERT E. BUSHNELL

42778



PATENT
P55971

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

KI-SEON KIM et al.

Serial No.: 09/503,240

Examiner: FISHER, MICHAEL

Filed: 14 February 2000

Art Unit: 3636

For: MONITOR CASE COMPRISING FACILE DETACH STRUCTURE

TRANSMITTAL OF APPELLANT'S BRIEF FEE

Assistant Commissioner
for Patents
Washington, D.C. 20231

Sir:

Accompanying this transmittal is a check drawn to the Commissioner of Patents and Trademarks in the amount of \$320.00 for the filing a Brief in support of a Notice of Appeal filed on 22 May 2002. Should any additional fees be incurred, the Commissioner is authorized to charge Deposit Account No. 02-4943 in that amount. Please inform the Applicant of any transactions involving the Deposit Account.

Respectfully submitted,

Originally signed
Robert E. Bushnell
Attorney for Applicant
Reg. No.: 27,774

1522 "K" Street, N.W., Suite 300
Washington, D.C. 20005
Area Code: 202-408-9040

Folio: P55971
Date: 22 July 2002
I.D.: REB/sb



8 July 2003

P55971

Applicant: KI-SEON KIM et al.
Serial No.: 09/503,240
Filed: 14 February 2000
For: *MONITOR CASE COMPRISING FACILE DETACH
STRUCTURE*

Document filed:

1. Notice of Appeal
2. Fee Transmittal and check #44498 for \$320.00 (Notice of Appeal fee)





PATENT
P55971

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

KI-SEON KIM et al.

Serial No: 09/503,240

Examiner: FISHER, MICHAEL J.

Filed: 14 February 2000

Art Unit: 3636

For: MONITOR CASE COMPRISING FACILE DETACH STRUCTURE

NOTICE OF APPEAL

The Assistant Commissioner
of Patents
Washington, D.C. 20231

Sir:

Pursuant to 37 C.F.R. §1.191, Applicant hereby appeals to the Board of Patent Appeals from the final rejection dated 15 January 2002 (Paper No. 8) of claims 1-25.

In support of the Notice, the items checked below are appropriate:

- 1. A response to the final rejection is being filed.
- 2. Appeal Fee: \$320.00
- 3. Enclosed (a check for \$320.00)
- 4. Charge Deposit Account No. 02-4943, if the charges exceed the check amount enclosed.

Respectfully submitted,

Originally signed

Robert E. Bushnell
Reg. No.: 27,774

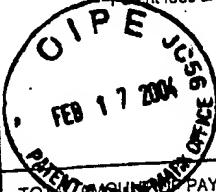
1522 "K" Street, N.W., Suite 300
Washington, D.C. 20005
(202) 408-9040

Folio: P55971
Date: May 22, 2002
I.D.: REB/sb

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL

Patent fees are subject to annual revision.



TOTAL AMOUNT OF PAYMENT (\$ 320.00)

METHOD OF PAYMENT (check one)

- The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number: 02-4943

Deposit Account Number: _____

Charge Any Additional Fee Required Under 37 C.F.R. §1.16 and 1.17.

Applicant claims small entity status. See 37 CFR 1.27

2. ■ Payment Enclosed:

(CHECK #44498)

Check Credit Card Money Order Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1001	750	2001	375	Utility filing fee	\$
1002	330	2002	165	Design filing fee	\$
1003	520	2003	260	Plant filing fee	\$
1004	750	2004	375	Reissue filing fee	\$
1005	160	2005	80	Provisional filing fee	\$

SUBTOTAL (1) (\$.00)

2. EXTRA CLAIM FEES

	Extra Claims	Fee from below	Fee Paid
Total claims	-25** =	x	=
Independent Claims	-4** =	1 x	=
Multiple Dependent			=

** or number previously paid, if greater; For Reissues, see below

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description
1201	84	2201	42	Independent claims in excess of 3
1202	18	2202	9	Claims in excess of 20
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$.00)

Complete If Known

Application Number	09/503,240
Filing Date	14 February 2000
First Named Inventor	KI-SEON KIM et al.
Examiner Name	FISHER, MICHAEL
Group/Art Unit	3629
Attorney Docket No.	P55971

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code (\$)	
1051	130	2051 65	Surcharge-late filing fee or oath \$
1052	50	2052 25	Surcharge-late provisional filing fee or cover sheet \$
1053	130	1053 130	Non-English specification \$
1812	2,520	1812 2,520	For filing a request for reexamination \$
1804	920*	1804 920*	Requesting publication of SIR prior to Examiner action \$
1805	1,840*	1805 1,840*	Requesting publication of SIR after Examiner action \$
1251	110	2251 55	Extension for reply within first month \$
1252	410	2252 205	Extension for reply within second month \$
1253	930	2253 465	Extension for reply within third month \$
1254	1,450	2254 725	Extension for reply within fourth month \$
1255	1,970	2255 985	Extension for reply within fifth month \$
1401	320	2401 160	Notice of Appeal \$320.00
1402	320	2402 160	Filing a brief in support of an appeal \$
1403	280	2403 140	Request for oral hearing \$
1451	1,510	1451 1,510	Petition to institute a public use proceeding \$
1452	110	2452 55	Petition to revive - unavoidable \$
1453	1,300	2453 650	Petition to revive - unintentional \$
1501	1,300	2501 650	Utility issue fee (or reissue) \$
1502	470	2502 235	Design issue fee \$
1503	630	2503 315	Plant Issue fee \$
			Petitions to the Commissioner \$
1460	130	1460 130	Processing fee for provisional applications \$
1807	50	1807 50	Submission of Information Disclosure Statement \$
1806	180	1806 180	Recording each patent assignment per property (Times number of properties) \$
8021	40	8021 40	Filing a submission after final rejection (37 C.F.R. §1.129(a)) \$
1809	750	2809 375	For each additional invention to be examined (37 C.F.R. §1.129(b)) \$
1810	750	2810 375	Request for Continued Examination (RCE) \$
			Other Fee (specify) \$
			Other Fee (specify) \$
			** Reduced by Basic Filing Fee Paid \$320.00
			SUBTOTAL (3) \$320.00

SUBMITTED BY

Complete (if applicable)

Typed or Printed Name	Robert E. Bushnell, Esq.	Reg. Number	27,774
Signature	Originally signed	Date	July 8, 2003
		Deposit Account User ID	

ROBERT E. BUSHNELL

LAW OFFICE

1522 K STREET, N.W., SUITE 300
WASHINGTON, D.C. 20005-1202
(202) 408-9040

CITIBANK, F.S.B.
WASHINGTON, D.C. 20036-0867

44498

15-7011/2540

7/8/2003

AY TO THE Commissioner Of U.S. Patent & Trademark
RDER OF

\$ *320.00

DOLLARS

Three Hundred Twenty and 00/100*****

P55971

Originally signed

MEMO

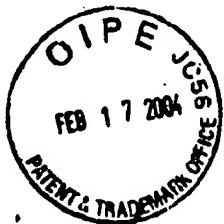
Serial No. 09/503,240 - Notice of Appeal fee

" 0 4 4 9 8 " 1 2 5 4 0 7 0 1 1 6 : 1 5 1 3 8 4 8 8 "

① SECURITY FEATURES INCLUDED. DETAILS ON BACK. ②

ROBERT E. BUSHNELL

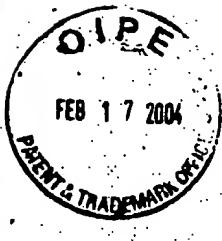
44498



PAID

ROBERT E. BUSHNELL

44498



8 September 2003

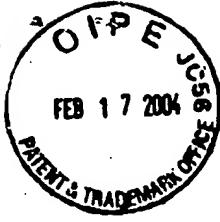
P55971

Applicant: KI-SEON KIM et al.
Serial No.: 09/503,240
Filed: 14 February 2000
For: *MONITOR CASE COMPRISING FACILE DETACH
STRUCTURE*

Document filed:

1. Appeal Brief (triplicate)
2. Transmittal of Appellant's Brief Fee





PATENT
P55971

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

KI-SEON KIM et al.

Serial No.: 09/503,240

Examiner: FISHER, MICHAEL

Filed: 14 February 2000

Art Unit: 3629

For: MONITOR CASE COMPRISING FACILE DETACH STRUCTURE

TRANSMITTAL OF APPELLANT'S BRIEF FEE

Mail Stop: Appeal Brief - Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Accompanying this transmittal is an Appeal Brief in support of a Notice of Appeal filed on 8 July 2003. A fee of \$320.00 for filing an Appeal Brief has been previously paid on 22 July 2002, together with an Appeal Brief filed on 22 July 2002. Thus, we believe that there is no fee incurred by filing this Appeal Brief. Should any additional fees be incurred, the Commissioner is authorized to charge Deposit Account No. 02-4943 in that amount. Please inform the Applicant of any transactions involving the Deposit Account.

Respectfully submitted,

Originally signed
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Date: 8 September 2003
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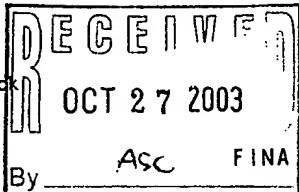


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APPEAL

1208.02

PAT

CFR 1.193(a)(2) would authorize a rejection of claim 4 (or amended claim 1) under 35 U.S.C. 103 on the basis of Reference A in view of Reference C, provided the applicant was advised that this rejection would be applied to claim 4 (or amended claim 1). If, however, an amendment under 37 CFR 1.116 proposes to combine the limitations of claims 1, 2, and 3 together into new claim 4 (or add the limitations of claims 2 and 3 to claim 1), 37 CFR 1.193(a)(2) would not authorize a rejection of claim 4 (or amended claim 1) under 35 U.S.C. 103 on the basis of Reference A in view of Reference B and Reference C, even if the applicant is advised that this rejection would be applied to claim 4 (or amended claim 1). Of course, as a claim including the limitations of both claim 2 and claim 3 is a newly proposed claim in the application raising a new issue (i.e., a new ground of rejection), such an amendment under 37 CFR 1.116 may properly be refused entry as raising new issues.

It must be emphasized that amended 37 CFR 1.193(a)(2) does not change the existing practice with respect to amendment after final rejection practice (37 CFR 1.116). The fact that 37 CFR 1.193(a)(2) would authorize the rejection in an examiner's answer of a claim sought to be added or amended in an amendment under 37 CFR 1.116 has no effect on whether the amendment under 37 CFR 1.116 is entitled to entry. The provisions of 37 CFR 1.116 control whether an amendment under 37 CFR 1.116 is entitled to entry; the provisions of 37 CFR 1.193(a)(2) control the rejections to which a claim added or amended in an amendment under 37 CFR 1.116 may be subject in an examiner's answer.

A new prior art reference cited for the first time in an examiner's answer generally will constitute a new ground of rejection. If the citation of a new prior art reference is necessary to support a rejection, it must be included in the statement of rejection, which would be considered to introduce a new ground of rejection. Even if the prior art reference is cited to support the rejection in a minor capacity, it should be positively included in the statement of rejection. *In re Hoch*, 428 F.2d 1341, 1342 n.3, 166 USPQ 406, 407 n. 3 (CCPA 1970). However, where a newly cited reference is added merely as evidence of the prior well known statement made by the examiner, the citation of the reference in the examiner's answer would not consti-

tute a new ground of rejection within the meaning of 37 CFR 1.192(a)(2). See also MPEP § 2144.03.

Any allegation that an examiner's answer contains an impermissible new ground of rejection is waived if not timely (37 CFR 1.181(f)) raised by way of a petition under 37 CFR 1.181(a).

1208.02 Reopening of Prosecution After Appeal

The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a).

Form paragraph 12.81 may be used when reopening prosecution:

¶ 12.81 Reopening of Prosecution - New Ground of Rejection After Appeal or Examiner's Rebuttal of Reply Brief

In view of the [1] filed on [2], PROSECUTION IS HEREBY REOPENED. [3] set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Examiner Note:

1. Use this form paragraph to reopen prosecution in order to make a new ground of rejection of claims or to enter a rebuttal to the reply brief. The finality or non-finality of an Office action following a reopening of prosecution depends on whether the action could have been properly made final had it been entered prior to the appeal.
2. In bracket 1, insert --appeal brief--, --supplemental appeal brief--, --reply brief-- or --supplemental reply brief--.
3. In bracket 2, insert the date on which the brief was filed.
4. In bracket 3, insert --A new ground of rejection is--, --New grounds of rejection are-- or --A rebuttal to the Reply Brief is--.

After reopening of prosecution, appellant must exercise one of the following options to avoid abandonment of the application:

- (A) file a reply under 37 CFR 1.111, if the Office action is non-final;
- (B) file a reply under 37 CFR 1.113, if the Office action is final; or
- (C) request reinstatement of the appeal.

{ See 37 CFR 1.193(b)(2). Whether appellant elects to continue prosecution or to request reinstatement of the appeal, if prosecution was reopened prior to a decision on the merits by the Board of Patent Appeals and Interferences, the fee paid for the notice of appeal, appeal brief, and request for oral hearing (if applicable) will be applied to a later appeal on the same application.

If reinstatement of the appeal is requested, the request must be accompanied by a supplemental appeal brief; however, no new amendments, affidavits (37 CFR 1.130, 1.131, or 1.132), or other evidence is permitted. The supplemental appeal brief must comply with the requirements of 37 CFR 1.192(c), but in doing so may incorporate by reference such parts of the previously-filed brief as may still be applicable. The arguments presented in the supplemental appeal brief need only be those relevant to the new ground(s) of rejection raised in the Office action that reopened prosecution, but the appellant should also identify all previously-raised issues and/or arguments which are still considered to be relevant. If the examiner does not consider that the supplemental appeal brief complies with the foregoing requirements, appellant should be given a 1-month time period within which to file an amended supplemental brief under 37 CFR 1.192(d). See MPEP § 1206.

After the supplemental appeal brief is filed, the examiner may issue an answer thereto, and appellant may file a reply brief. It is also possible that, after reading the brief, the examiner may be convinced that some or all of the finally rejected claims are allowable. Where the examiner is of the opinion that some of the claims are allowable, he or she should so specify in the examiner's answer and confine the arguments to the remaining rejected claims. If the examiner finds, upon reconsideration, that all the rejected claims are allowable, or where the appellant in the brief withdraws the appeal as to some of the

rejected claims by submitting an appropriate amendment and the examiner finds the remaining claims to be allowable, the examiner should allow the application.

In applications where an interference has resulted from the applicant provoking an interference with the patent which provided the basis for final rejection, the rejection based on that patent should be withdrawn and the appeal dismissed as to the involved claims.

1208.03 Reply Brief

37 CFR 1.193. Examiner's answer and reply brief.

(b)(1)Appellant may file a reply brief to an examiner's answer or a supplemental examiner's answer within two months from the date of such examiner's answer or supplemental examiner's answer. See § 1.136(b) for extensions of time for filing a reply brief in a patent application and § 1.550(c) for extensions of time for filing a reply brief in a reexamination proceeding. The primary examiner must either acknowledge receipt and entry of the reply brief or withdraw the final rejection and reopen prosecution to respond to the reply brief. A supplemental examiner's answer is not permitted, unless the application has been remanded by the Board of Patent Appeals and Interferences for such purpose.

(2) Where prosecution is reopened by the primary examiner after an appeal or reply brief has been filed, appellant must exercise one of the following two options to avoid abandonment of the application:

- (i) File a reply under § 1.111, if the Office action is not final, or a reply under § 1.113, if the Office action is final; or
- (ii) Request reinstatement of the appeal. If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (§§ 1.130, 1.131 or 1.132) or other evidence are permitted.

Under 37 CFR 1.193(b)(1), appellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer or supplemental examiner's answer. Extensions of time to file the reply brief may be granted pursuant to 37 CFR 1.136(b) or 1.550(c). The primary examiner must then either: (A) acknowledge receipt and entry of the reply brief by using form paragraph 12.47 on form PTOL-90; or (B) reopen prosecution to respond to the reply brief. See MPEP § 1208.02. A supplemental examiner's answer is not permitted unless the application has been remanded by the Board for such purpose.